

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ESEROMA CAKACAKA

53 Oakland Avenue
Uniontown, PA 15401

and

SERUWAIA CAKACAKA

53 Oakland Avenue
Uniontown, PA 15401

Plaintiffs,

-vs-

ARROWS UP, LLC

c/o its Statutory Agent
CT Corporation System
4400 Easton Commons Way, Suite 125
Columbus, OH 43219

Defendant.

CASE NO.:

JUDGE

COMPLAINT

(Jury Demand Endorsed Herein)

Now comes Plaintiffs, Eseroma Cakacaka and Seruwaia Cakacaka, by and through their attorney, and for their Complaint state as follows:

PARTIES

1. Plaintiff, Eseroma Cakacaka, is a resident of 53 Oakland Avenue, Uniontown, PA

15401. At the time of the incident giving rise to this Complaint, May 9, 2019, Plaintiff, Eseroma Cakacaka, resided at 231 Bigham Street, Pittsburgh, PA 15211.

2. Plaintiff, Seruwaia Cakacaka, is a resident of 53 Oakland Avenue, Uniontown, PA 15401 and at all times relevant herein is the wife of Plaintiff Eseroma Cakacaka. At the time of the incident giving rise to this Complaint, May 9, 2019, Plaintiff Seruwaia Cakacaka resided at 3944 Mayette Avenue, Apt 1, Santa Rosa, CA 95405.

3. Defendant Arrows Up, LLC (“Arrows Up”) is, upon information and belief, a foreign limited liability company organized and existing under the laws of the State of Colorado, with its principal place of business located at 252 Clayton Street, Denver, CO 80206. At the time of the incident giving rise to this Complaint, and at all times relevant hereto, Defendant Arrows Up operated and/or utilized hauling, containment, processing, and other types of storage and transportation equipment to deliver and utilize sand in the oil and gas business, through its employees and/or agents, in Ohio, specifically Jefferson County, Ohio at the Omaitis SMF JF property.

JURISDICTION

4. This Honorable Court has jurisdiction with respect to the claims set forth herein pursuant to 28 U.S.C. § 1332, in that diversity of citizenship exists between all the parties and the amount in controversy exceeds \$75,000.00.

VENUE

5. Venue is proper in this District and Division under 28 U.S.C. §1391(b)(2) in that the tortious conduct at issue occurred in this District and Division.

FIRST CLAIM FOR RELIEF

6. The preceding paragraphs are hereby realleged as if fully stated herein.

7. On or about May 9, 2019, Plaintiff Eseroma Cakacaka was on the premises of the Omait's SMF JF property ("subject premises"), located in Jefferson County, OH while working for FTS International. Upon information and belief, the subject premises is operated by non-party Ascent Resources Utica LLC.

8. On or about May 9, 2019 and at the subject premises, and upon information and belief, Defendant Arrows Up's agents, servants, and/or employees negligently, carelessly, and/or recklessly operated and/or moved a crane directly into Plaintiff's body, striking his leg and crushing him. Further alleging, Defendant Arrows Up, by and through its employees, agents and servants, were negligent in other respects to be proven at trial.

9. As a direct and proximate cause of the above-mentioned acts of negligence, recklessness and wrongful conduct of Defendant Arrows Up, by and through its employees and/or agents, Plaintiff Eseroma Cakacaka was caused to suffer serious and permanent injuries to his body, including but not limited to, multiple displaced fractures to his left leg, resulting in bone removal, skin grafts over a large majority of his leg, amongst other injuries, causing conscious pain and physical suffering, and an inability to engage in his usual activities.

10. Further, Plaintiff Eseroma Cakacaka's injuries are of a permanent nature and have resulted in permanent and substantial physical deformities as those terms are used in O.R.C. 2315.18(B)(3)(a).

11. As a direct and proximate result of Defendant Arrows Up's tortious conduct, by and through its agents and/or employees, Plaintiff Eseroma Cakacaka was caused to seek necessary medical care and attention, and, in all likelihood, will be forced to seek additional medical care and treatment into the indefinite future all to his financial expense. Specifically, Mr. Cakacaka was hospitalized at UPMC Montefiore in Pittsburgh, PA for over one (1) month requiring multiple surgeries and then subsequently admitted for in-patient medical treatment at ManorCare Health Services-Greentree in Pittsburgh, PA.

12. As a further direct and proximate result of the above-mentioned acts of negligence by Defendant Arrows Up, by and through its agents, servants and/or employees, Plaintiff's ability to incur sufficient earnings and wages into the future have been compromised as a result of this incident, all to his financial detriment.

13. As a further direct and proximate result of the above-mentioned acts of negligence by Arrows Up, by and through its agents, servants and/or employees, Plaintiff has suffered out-of-pocket expenses and other incidental damages.

WHEREFORE, Plaintiff Eseroma Cakacaka prays for judgment against Defendant Arrows Up, LLC for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with interest, costs, attorney's fees, and such other and further relief as this Honorable Court deems just and equitable.

SECOND CLAIM FOR RELIEF

14. The preceding paragraphs are hereby realleged as if fully stated herein.

15. Plaintiff Seruwaia Cakacaka is and was at all times herein the wife of Plaintiff

Eseroma Cakacaka.

16. As a further direct and proximate result of the above mentioned acts of negligence by Defendant Arrows Up, by and through its agents and/or employees, Plaintiff Seruwaia Cakacaka was caused to lose the love, affection, consortium and/or other services of her husband, Plaintiff Eseroma Cakacaka, all to her detriment.

17. Plaintiff Seruwaia Cakacaka further states that as a result of her husband's injuries, she has incurred expenses, including but not limited to medical expenses, which sums shall be made more definite at the time of trial.

WHEREFORE, Plaintiff Seruwaia Cakacaka prays for judgment against Defendant Arrows Up, LLC for an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with interest, costs, attorney's fees, and such other and further relief as this Honorable Court deems just and equitable.

Respectfully submitted,

/s/ Jordan D. Lebovitz

Jordan D. Lebovitz, Esq. (0091247)
Nurenberg, Paris, Heller & McCarthy Co., L.P.A.
600 Superior Avenue E., Suite 1200
Cleveland, Ohio 44114
Phone: (216) 621-2300
Fax: (216) 771-2242
JordanLebovitz@nphm.com

Attorney for Plaintiff

JURY DEMAND

A trial by jury is hereby demanded on the within action.

/s/ Jordan D. Lebovitz

Jordan D. Lebovitz, Esq. (0091247)
NUREMBERG, PARIS, HELLER &
McCARTHY CO., L.P.A.